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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

MIMB Docket No. 1576-0082

Bosch Reference: **R70500**

Application of: **Baber**

Group Art Unit: **3725**

Serial No. **10/680,513**

Examiner: **B. Miller**

Filed: **October 7, 2003**

For: **Support Assembly for a Hand-Held Power Tool having Movable
Carriage with Receptacle**

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Paul J. Maginot

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January 19, 2007

Date of Signature

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal to the Board of Patent Appeals and Interferences of the
United States Patent and Trademark Office (USPTO) from the rejection of claims

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10-31 of the above-identified patent application. These claims have been finally rejected in an Office Action dated August 17, 2006. The \$500.00 government fee required for the filing of this Appeal Brief is submitted herewith. Also, please charge any fees that may be due to Deposit Account No. 13-0014, but not to include any payment of issue fees.

The USPTO date of receipt of the Notice of Appeal in connection with this patent application is November 20, 2006, and the Appeal Brief is due two months from this date. Therefore, this Appeal Brief is being timely filed on January 19, 2007. However, if for any reason it is necessary, it is respectfully submitted that this paper be considered as a Petition for an Extension of Time sufficient to effect a timely filing of this Appeal Brief, and the shortages in fees, if any, be charged, or any overpayment in fees be credited, to our Deposit Account No. 13-0014.

(1) REAL PARTY IN INTEREST

Credo Technology Corporation of Broadview, Illinois is the assignee of this patent application, and the real party in interest.

(2) RELATED APPEALS AND INTERFERENCES

None.

(3) STATUS OF CLAIMS

Claims 10-31 are pending in the application.

Claims 10-12, 14-20, 22-26, and 28-31 are finally rejected.

Claims 13, 21, and 27 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-12, 14-20, 22-26, and 28-31 are being appealed.

Claims 13, 21, and 27 are not being appealed.

Claims 10-31 are shown in the Claim Appendix attached to this Appeal Brief.

(4) STATUS OF AMENDMENTS

Appellant has filed no amendments subsequent to the final rejection contained in the Final Office Action mailed August 17, 2007.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

A first aspect of Appellant's invention relates to an assembly that includes a hand-held power tool R including (i) a housing having an exterior threaded portion T, and (ii) a drive spindle S. (See, e.g., Appellant's specification at page 11, lines 18-22; and Figs. 6, 14, and 15.) The assembly further includes a support apparatus including a base 12 and a vertical support member 16 connected to the base 12. (See, e.g., Appellant's specification at page 7, lines 10-14; and Fig. 7) The support apparatus further includes a carriage 14 movable in relation to the vertical support member 16, the carriage 14 having a receptacle 60 that defines an upper opening and a lower opening, the hand-held power tool R being received within the receptacle 60 so that a first portion of the hand-held power tool R extends through the lower opening and a second portion of the hand-held power tool R extends through the upper opening. (See, e.g., Appellant's specification at page 10, lines 12-16; and Figs. 1, 6, and 8) The support apparatus additionally includes a nut 88 rotatably secured to the receptacle 60, the nut 88 defining an internally threaded bore 90 extending therethrough, and the internally threaded bore 90 being positioned in alignment with the lower opening of the receptacle 60, and further the exterior threaded portion T of the housing of the hand-held power tool R being threadingly received within the internally threaded bore 90 defined by the nut 88. (See, e.g., Appellant's specification at page 11, lines 18-28; page 12, lines 17-18; and Figs. 1, 6, 8, 9, and 11.)

The support apparatus further includes a retainer member 100 attached to the receptacle 60. The retainer member 100 defines a second bore aligned with the lower opening of the receptacle 60. The nut 88 includes (i) a first portion interposed between the receptacle 60 and the retainer member 100, and (ii) a second portion that extends through the second bore. The second portion of the nut 88 includes an exterior polygonal drive surface. (See, e.g., Appellant's specification at page 12, lines 18-23; and Figs. 8 and 9.)

The retainer member 100 includes a plurality of arms 104, and the receptacle 60 includes a plurality of slots 106 defined therein, and the plurality of arms 104 respectively extend through the plurality of slots 106. (See, e.g., Appellant's specification at page 12, lines 23-28; and Figs. 8 and 9.)

The first portion of the nut 88 includes a circumferential flange 94, and the circumferential flange 94 is interposed between the receptacle 60 and the retainer member 100. (See, e.g., Appellant's specification at page 12, lines 21-23; and Figs. 8 and 9.)

A further aspect of the invention relates to an assembly having a hand-held power tool R including (i) a housing having an exterior threaded portion T, and (ii) a drive spindle S. (See, e.g., Appellant's specification at page 11, lines 18-22; and Figs. 6, 14, and 15.) The assembly further has a support apparatus including a base 12 and a vertical support member 16 connected to the base 12. (See, e.g., Appellant's specification at page 7, lines 10-14; and Fig. 7) The support apparatus additionally includes a carriage 14 movable in relation to the vertical support member 16, the carriage 14 having a receptacle 60 that defines

an upper opening and a lower opening, the receptacle 60 being configured to receive the hand-held power tool R so that a first portion of the hand-held power tool R extends through the lower opening and a second portion of the hand-held power tool R extends through the upper opening. (See, e.g., Appellant's specification at page 10, lines 12-16; and Figs. 1, 6, and 8) The support apparatus further includes an attachment member 88 rotatably secured to the receptacle 60, the attachment member 88 defining an internally threaded bore 90, and the internally threaded bore 90 being (i) positioned in alignment with the lower opening of the receptacle 60, and (ii) positioned in mating relationship with the exterior threaded portion T of the housing of the hand-held power tool R. (See, e.g., Appellant's specification at page 11, lines 18-28; page 12, lines 17-18; and Figs. 1, 6, 8, 9, and 11.)

An additional aspect of the present invention relates to an assembly that includes a base 12 and a vertical member 16 connected to the base 12. (See, e.g., Appellant's specification at page 7, lines 10-14; and Fig. 7) The assembly also includes a carriage 14 movable in relation to the vertical support member 16, the carriage 14 having a receptacle 60 that defines an upper opening and a lower opening. (See, e.g., Appellant's specification at page 10, lines 12-16; and Figs. 1, 6, and 8) The assembly further includes a hand-held power tool R having (i) a housing including a threaded exterior portion T, and (ii) a drive spindle S, the hand-held power tool R being positioned within the receptacle 60 so that a first portion of the hand-held power tool R extends through the lower opening and a second portion hand-held power tool R extends through the upper

opening. (See, e.g., Appellant's specification at page 10, lines 12-16; page 11, lines 18-22; and Figs. 1, 6, 8, 14, and 15.) The assembly additionally includes an attachment member 88 rotatably secured to the receptacle 60, the attachment member 88 having an internally threaded portion 90 that defines a bore extending through the attachment member 88, the internally threaded portion 90 being meshingly engaged with the threaded exterior portion T of the hand-held power tool R. (See, e.g., Appellant's specification at page 11, lines 18-28; page 12, lines 17-18; and Figs. 1, 6, 8, 9, and 11.) At least a part of the drive spindle S is interposed between the carriage 14 and the base 12 when the internally threaded portion 90 of the attachment member 88 is meshingly engaged with the threaded exterior portion T of the hand-held power tool R. (See, e.g., Appellant's specification at page 11, lines 3-22 and 18-28; and Fig. 6.)

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 10-12, 14-20, 22-26, and 28-31 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sanders (U.S. Patent No. 4,445,361) or Zelik (U.S. Patent No. 3,447,001) in view of Seely et al. (U.S. Patent No. 3,811,361).

(7) ARGUMENT

Claims 10-12, 14-20, 22-26, and 28-31 are not unpatentable under 35 U.S.C. § 103 as being obvious over Sanders (U.S. Patent No. 4,445,361) or Zelik (U.S. Patent No. 3,447,001) in view of Seely et al. (U.S. Patent No. 3,811,361)

Discussion Regarding Patentability of Claim 10

Claim 10 recites, inter alia, the following:

10. An assembly, comprising:
a hand-held power tool including (i) a housing having an exterior threaded portion, and (ii) a drive spindle; and
a support apparatus including:

...

a carriage movable in relation to said vertical support member, said carriage having a receptacle ... ; and

a nut rotatably secured to said receptacle, said nut defining an internally threaded bore extending therethrough, ..., and further said exterior threaded portion of said housing of said hand-held power tool being threadingly received within said internally threaded bore defined by said nut.

In contrast, none of Sanders, Zelik, and Seely discloses a nut that is rotatably secured to a receptacle of a carriage wherein the nut also defines an internally threaded bore that threadingly receives an exterior threaded portion of a housing of a hand-held power tool as required by Appellant's invention of claim 10. As the examiner pointed out in the 8/17/06 Office Action (at page 2, lines 14-15), Sanders and Zelik fail to teach a nut defining an internally threaded bore that is rotatably supported in relation to the receptacle of a carriage. Furthermore, the internally threaded nut 38 of Seely (see Fig. 4) is clearly not rotatably secured to a receptacle of a carriage as required by claim 10. Rather, the nut 38 is secured to the spindle of the power tool. (See, e.g., Seely at column 2, lines 5-9; and FIGS. 5-8.)

Thus, even if it would have been obvious to combine Sanders, Zelik, and Seely as proposed, the resulting combination would not arrive at the invention of claim 10. Significantly, the resulting combination would not arrive at a system that would include a nut that is rotatably secured to a receptacle of a carriage wherein the nut also defines an internally threaded bore that threadingly receives an exterior threaded portion of a housing of a power tool. Accordingly, Sanders, Zelik, and Seely cannot be combined to establish a prima facie case of obviousness under 35 U.S.C. § 103 with regard to the invention of claim 10. Thus, the Board of Appeals is respectfully requested to reverse the rejection of claim 10.

In the 8/17/06 Office Action (page 3, lines 9-13), the Examiner appears to take the position that claim 10 is drafted in a manner in which a reasonable interpretation is that the claimed "housing" somehow includes the claimed "drive spindle". Appellant respectfully disagrees. Claim 10 clearly recites that the *hand-held power tool* includes (i) a housing, and (ii) a drive spindle. Thus, the claimed "drive spindle" is a separate component from the claimed "housing". And accordingly, as discussed above, Sanders, Zelik, and Seely cannot be combined to establish a prima facie case of obviousness under 35 U.S.C. § 103 with regard to the invention of claim 10.

Further, in the 8/17/06 Office Action (page 3, lines 13-15), the Examiner appears to take the position that a reasonable reading of the Seely reference is that the nut 38 is secured to Seely's power tool housing (reference numeral not identified) "via the spindle". However, even if one were to adopt this erroneous

reading of Sealy to say that the nut 38 is secured to Sealy's power tool housing, the proposed combination would fail to arrive at many of the other claim limitations recited in claim 10. For instance, the nut 38 would not be also rotatably secured to a receptacle of a carriage that receives a hand-held power tool and moves in relation to a vertical support member as called for in claim 10. Therefore, even under this improper reading of the Sealy reference, Sanders, Zelik, and Seely cannot be combined to establish a prima facie case of obviousness under 35 U.S.C. § 103 with regard to the invention of claim 10.

Discussion Regarding Patentability of Claims 11-12 and 17-19

Each of claims 11-12 and 17-19 depends directly or indirectly from claim 10. As a result, each of claims 11-12 and 17-19 is allowable for, at least, the reasons hereinbefore discussed with regard to claim 10.

Discussion Regarding Patentability of Claims 14-16

Each of claims 14-16 depends directly or indirectly from claim 10. As a result, each of claims 14-16 is allowable for, at least, the reasons hereinbefore discussed with regard to claim 10.

Moreover, claim 14 further recites the following:

wherein said support apparatus further includes a retainer member attached to said receptacle, wherein:

said retainer member defines a second bore aligned with said lower opening of said receptacle,

said nut includes (i) a first portion interposed between said receptacle and said retainer member, and (ii) a second portion that extends through said second bore, and

said second portion of said nut includes an exterior polygonal drive surface.

None of Sanders, Zelik, and Seely discloses a retainer having the characteristics called for in claim 14. Moreover, nowhere in the 8/17/06 Office Action has the Examiner even discussed the claimed "retainer member", or any of the claimed characteristics of the claimed "retainer member". Thus, the resulting combination of Sanders, Zelik, and Seely does not arrive at the invention of claim 14. Accordingly, a prima facie case of obviousness under 35 U.S.C. § 103 has further not been established with respect to the invention defined by claim 14. Thus, the Board of Appeals is respectfully requested to reverse the rejection of claim 14.

In addition, claim 15 further recites the following:

said retainer member includes a plurality of arms,
said receptacle includes a plurality of slots defined therein, and
said plurality of arms respectively extend through said plurality of slots.

None of Sanders, Zelik, and Seely discloses a retainer and a receptacle having the characteristics called for in claim 15. Nowhere in the 8/17/06 Office Action has the Examiner discussed any of these claim limitations. Thus, the resulting combination of Sanders, Zelik, and Seely does not arrive at the invention of claim 15. Accordingly, a prima facie case of obviousness under 35 U.S.C. § 103 has further not been established with respect to the invention defined by claim 15. Thus, the Board of Appeals is respectfully requested to reverse the rejection of claim 15.

Further, claim 16 further recites the following:

said first portion of said nut includes a circumferential flange, and
said circumferential flange is interposed between said receptacle and
said retainer member.

None of Sanders, Zelik, and Seely discloses a circumferential flange having the characteristics called for in claim 16. Nowhere in the 8/17/06 Office Action has the Examiner discussed any of these claim limitations. Thus, the resulting combination of Sanders, Zelik, and Seely does not arrive at the invention of claim 16. Accordingly, a prima facie case of obviousness under 35 U.S.C. § 103 has further not been established with respect to the invention defined by claim 16. Thus, the Board of Appeals is respectfully requested to reverse the rejection of claim 16.

Discussion Regarding Patentability of Claim 20

The discussion relating to the patentability of claim 10 is relevant to the patentability of claim 20. Thus, claim 20 is believed to be allowable over Sanders, Zelik, and Seely.

Discussion Regarding Patentability of Claims 22-25

Each of claims 22-25 depends directly or indirectly from claim 20. As a result, each of claims 22-25 is allowable for, at least, the reasons hereinbefore discussed with regard to claim 20.

Moreover, the discussion relating to the patentability of claim 14 is relevant to the patentability of claim 22. Thus, claim 22 is believed to be further allowable over Sanders, Zelik, and Seely.

In addition, the discussion relating to the patentability of claim 15 is relevant to the patentability of claim 23. Thus, claim 23 is believed to be further allowable over Sanders, Zelik, and Seely.

Moreover, the discussion relating to the patentability of claim 16 is relevant to the patentability of claim 24. Thus, claim 24 is believed to be further allowable over Sanders, Zelik, and Seely.

Discussion Regarding Patentability of Claim 26

The discussion relating to the patentability of claim 10 is relevant to the patentability of claim 26. Thus, claim 26 is believed to be allowable over Sanders, Zelik, and Seely.

Moreover, claim 26 further recites:

wherein at least a part of said drive spindle is interposed between said carriage and said base when said internally threaded portion of said attachment member is meshingly engaged with said threaded exterior portion of said hand-held power tool.

None of Sanders, Zelik, and Seely discloses at least a part of the drive spindle being interposed between the carriage and the base when the internally threaded portion of the attachment member is meshingly engaged with the threaded exterior portion of the hand-held power tool as required by claim 26. Nowhere in the 8/17/06 Office Action has the Examiner discussed this claim limitation. Thus, the resulting combination of Sanders, Zelik, and Seely further does not arrive at the invention of claim 26. Accordingly, a prima facie case of obviousness under 35 U.S.C. § 103 has further not been established with respect

to the invention defined by claim 26. Thus, the Board of Appeals is respectfully requested to reverse the rejection of claim 26.

Discussion Regarding Patentability of Claims 28-31

Each of claims 28-31 depends directly or indirectly from claim 26. As a result, each of claims 28-30 is allowable for, at least, the reasons hereinbefore discussed with regard to claim 26.

Moreover, the discussion relating to the patentability of claim 14 is relevant to the patentability of claim 28. Thus, claim 28 is believed to be further allowable over Sanders, Zelik, and Seely.

In addition, the discussion relating to the patentability of claim 15 is relevant to the patentability of claim 29. Thus, claim 29 is believed to be further allowable over Sanders, Zelik, and Seely.

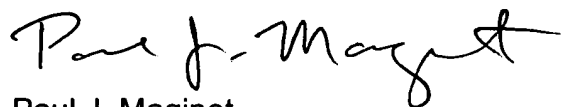
Moreover, the discussion relating to the patentability of claim 16 is relevant to the patentability of claim 30. Thus, claim 30 is believed to be further allowable over Sanders, Zelik, and Seely.

Conclusion

Claims 10-12, 14-20, 22-26, and 28-31 are not unpatentable under 35 U.S.C. § 103 as being obvious over Sanders (U.S. Patent No. 4,445,361) or Zelik (U.S. Patent No. 3,447,001) in view of Seely et al. (U.S. Patent No. 3,811,361), and the Board of Appeals is respectfully requested to reverse this rejection of these claims.

Respectfully submitted,

MAGINOT, MOORE & BECK



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January 19, 2007

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(8) CLAIM APPENDIX

10. An assembly, comprising:

a hand-held power tool including (i) a housing having an exterior threaded portion, and (ii) a drive spindle; and

a support apparatus including:

a base;

a vertical support member connected to said base;

a carriage movable in relation to said vertical support member, said carriage having a receptacle that defines an upper opening and a lower opening, said hand-held power tool being received within said receptacle so that a first portion of said hand-held power tool extends through said lower opening and a second portion of said hand-held power tool extends through said upper opening; and

a nut rotatably secured to said receptacle, said nut defining an internally threaded bore extending therethrough, and said internally threaded bore being positioned in alignment with said lower opening of said receptacle, and further said exterior threaded portion of said housing of said hand-held power tool being threadingly received within said internally threaded bore defined by said nut.

11. The assembly of claim 10, wherein:

said upper opening possesses a first diameter,

said lower opening possesses a second diameter, and

said second diameter is less than said first diameter.

12. The assembly of claim 10, wherein said nut includes an exterior polygonal drive surface.

13. The assembly of claim 10, wherein:

said receptacle includes a sidewall vertically disposed between said upper opening and said lower opening, and

said sidewall has defined therein an access opening configured to allow a user's finger to extend therethrough to contact a locking mechanism of the hand-held power tool.

14. The assembly of claim 10, wherein said support apparatus further includes a retainer member attached to said receptacle, wherein:

said retainer member defines a second bore aligned with said lower opening of said receptacle,

said nut includes (i) a first portion interposed between said receptacle and said retainer member, and (ii) a second portion that extends through said second bore, and

said second portion of said nut includes an exterior polygonal drive surface.

15. The assembly of claim 14, wherein:

said retainer member includes a plurality of arms,

said receptacle includes a plurality of slots defined therein, and

said plurality of arms respectively extend through said plurality of slots.

16. The assembly of claim 14, wherein:

said first portion of said nut includes a circumferential flange, and

said circumferential flange is interposed between said receptacle and said retainer member.

17. The assembly of claim 10, wherein said support apparatus further includes:

a first hand grip attached to a first side of said carriage, and
a second hand grip attached to a second side of said carriage that is opposite said first side of said carriage.

18. The assembly of claim 10, wherein:

said carriage is movable in relation to said vertical support member between an upper position and a lower position, and
said carriage is spring biased toward said upper position.

19. The assembly of claim 18, wherein said support apparatus further includes a stop limit assembly attached to said carriage, wherein:

said stop limit assembly includes an elongate member having a lower end,
said lower end of said elongate member is spaced apart from said base when said carriage is located in said upper position, and
said lower end of said elongate member is positioned in contact with said base when said carriage is located in said lower position.

20. An assembly, comprising:

a hand-held power tool including (i) a housing having an exterior threaded portion, and (ii) a drive spindle; and

a support apparatus including:

- a base;
- a vertical support member connected to said base;
- a carriage movable in relation to said vertical support member, said carriage having a receptacle that defines an upper opening and a lower opening, said receptacle being configured to receive said hand-held power tool so that a first portion of said hand-held power tool extends through said lower opening and a second portion of said hand-held power tool extends through said upper opening; and
- an attachment member rotatably secured to said receptacle, said attachment member defining an internally threaded bore, and said internally threaded bore being (i) positioned in alignment with said lower opening of said receptacle, and (ii) positioned in mating relationship with said exterior threaded portion of said housing of said hand-held power tool.

21. The assembly of claim 20, wherein:

said receptacle includes a sidewall vertically disposed between said upper opening and said lower opening, and

said sidewall has defined therein an access opening configured to allow a user's finger to extend therethrough to contact a locking mechanism of the hand-held power tool.

22. The assembly of claim 20, wherein said support apparatus further includes a retainer member attached to said receptacle, wherein:

said retainer member defines a second bore,

said attachment member includes (i) a first portion interposed between said receptacle and said retainer member, and (ii) a second portion that extends through said second bore, and

said second portion of said attachment member includes an exterior polygonal drive surface.

23. The assembly of claim 22, wherein:

said retainer member includes a plurality of arms,

said receptacle includes a plurality of slots defined therein, and

said plurality of arms respectively extend through said plurality of slots.

24. The assembly of claim 22, wherein:

said first portion of said attachment member includes a circumferential flange, and

said circumferential flange is interposed between said receptacle and said retainer member.

25. The assembly of claim 20, wherein:

said carriage is movable in relation to said vertical support member between a first position and a second position, and

said carriage is spring biased toward said first position.

26. An assembly, comprising:

- a base;
- a vertical member connected to said base;
- a carriage movable in relation to said vertical support member, said carriage having a receptacle that defines an upper opening and a lower opening;
- a hand-held power tool having (i) a housing including a threaded exterior portion, and (ii) a drive spindle, said hand-held power tool being positioned within said receptacle so that a first portion of said hand-held power tool extends through said lower opening and a second portion hand-held power tool extends through said upper opening; and
- an attachment member rotatably secured to said receptacle, said attachment member having an internally threaded portion that defines a bore extending through said attachment member, said internally threaded portion being meshingly engaged with said threaded exterior portion of said hand-held power tool,

wherein at least a part of said drive spindle is interposed between said carriage and said base when said internally threaded portion of said attachment member is meshingly engaged with said threaded exterior portion of said hand-held power tool.

27. The assembly of claim 26, wherein:

said hand-held power tool further has a bit locking mechanism,

said receptacle includes a sidewall vertically disposed between said upper opening and said lower opening, and

said sidewall has defined therein an access opening configured to allow a user's finger to extend therethrough to contact said bit locking mechanism of said hand-held power tool.

28. The assembly of claim 26, further comprising a retainer member attached to said receptacle, wherein:

said retainer member defines a second bore,

said attachment member includes (i) a first portion interposed between said receptacle and said retainer member, and (ii) a second portion that extends through said second bore, and

said second portion of said attachment member includes an exterior polygonal drive surface.

29. The assembly of claim 28, wherein:

said retainer member includes a plurality of arms,

said receptacle includes a plurality of slots defined therein, and

said plurality of arms respectively extend through said plurality of slots.

30. The assembly of claim 28, wherein:

said first portion of said attachment member includes a circumferential flange, and

said circumferential flange is interposed between said receptacle and said retainer member.

31. The assembly of claim 26, wherein:

said carriage is movable in relation to said vertical support member between an upper position and a lower position, and

said carriage is spring biased toward said upper position.

(9) EVIDENCE APPENDIX

None.

(10) RELATED PROCEEDINGS APPENDIX

None.



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Bosch Reference: R70500

Application of: **Baber**

Serial No. 10/680,513

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Carriage with Receptacle**

Group Art Unit: 3725

Examiner: **B. Miller**

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Signature

January 19, 2007

Date of Signature

LETTER

Sir:

Enclosed is an Appeal Brief in connection with the above-identified patent application. The USPTO date of receipt of the Notice of Appeal in connection with this patent application is November 20, 2006, and the Appeal Brief is due two months from this date. Therefore, this Appeal Brief is being timely filed on January 19, 2007. However, if for any reason it is necessary, it is respectfully submitted that this paper be considered as a Petition for an Extension of Time sufficient to effect a timely filing of this Appeal Brief, and the shortages in fees, if any, be charged, or any overpayment in fees be credited, to our Deposit Account No. 13-0014.

Commissioner for Patents

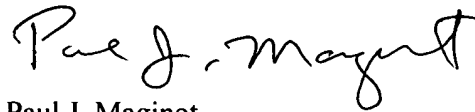
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Respectfully submitted,

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